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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,344	02/14/2002	Egon Schulz	071308.0953 (1999P01486WO)	7966
31625	7590	02/25/2009		
BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039				
EXAMINER				
MILLER, BRANDON J				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
02/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/937,344

Applicant(s)

SCHULZ, EGON

Examiner

BRANDON J. MILLER

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment/Remarks

Continued Examination Under 37 CFR 1.114

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2008 has been entered and claims 1-8 are pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

II. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "and wherein the channel description further includes" in line 10. This limitation is unclear because the phrase "the channel description further includes" indicates that the channel description includes something in addition to what was previously mentioned. However, prior to line 10, the claim does not mention that the channel description includes anything. The limitation renders the claim indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the order of the information on each of the plurality of channel resources" in line 2. There is insufficient antecedent basis for this limitation in the claim because the claim upon which claim 2 is dependent does not mention an order of the information on each of the plurality of channel resources.

The following art rejection is based on the best possible interpretation of the claim language in light of the rejection under 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

III. Claims 1-3 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Raitola et al. (US 6,317,418 B1).

Regarding claim 1 Raitola teaches a method for assigning channels for radio transmission between a subscriber station and a base station of a radio communication system for transmission of data in a predefined direction (see col. 5, lines 20-23 and col. 11, lines 1-3). Raitola teaches assigning a plurality of channel resources to the subscriber station for the predefined transmission direction via a common channel description (see col. 10, line 67 and col. 11, lines 1-3, order channel reads on common channel description). Raitola teaches the plurality of channel resources each having at least one of different spread-spectrum codes, different code

groups, different frequencies and different midambles (see col. 11, lines 1-3, transmission units in CDMA systems can be a period with one or more spreading codes and in FDMA systems can be a period with one or more frequencies, this reads on at least one of different spread-spectrum codes, different code groups, different frequencies and different midambles as claimed (see col. 5, lines 7-10). Raitola teaches the channel description includes information about utilization of the channel resources during the radio transmission, which specifies an order of the transmission of data for the one transmission direction (see col. 11, lines 1-3, Forward Order specifying which transmission unit and on which channel a terminal having a certain ID should transmit reads on specifying an order of the transmission of data for the one transmission direction). Raitola teaches transmitting the common channel description to the subscriber station (see col. 10, line 67 and col. 11, lines 1-3).

Regarding claim 2 Raitola teaches utilization of channel resources that is specified by the order of the information on each of the channel resources within the channel description (see col. 11, lines 1-3).

Regarding claim 3 Raitola teaches the order of the utilization of channel resources is specified by information relating to at least one of timeslots assigned, to spread-spectrum codes, and to assigned frequencies (see col. 5, lines 5-10 and col. 11, lines 1-3).

Regarding claim 7 Raitola teaches wherein a case where one channel is changed, the description of this channel is sent (see col. 11, lines 1-3 and col. 12, lines 1-3).

Regarding claim 8 Raitola teaches a base station for a radio communication system comprising a facility to assign channels for a radio transmission with one subscriber station for one transmission direction (see col. 5, lines 20-23 and col. 11, lines 1-3). Raitola teaches

wherein the facility is operable to generate and transmit a common channel description to the subscriber station, wherein the common channel description includes data assigning a plurality of channel resources for the radio transmission (see col. 10, line 67 and col. 11, lines 1-3, order channel reads on channel description). Raitola teaches the channel resources have at least one of different spread-spectrum codes, different code groups, different frequencies and different midambles (see col. 11, lines 1-3, transmission units in CDMA systems can be a period with one or more spreading codes and in FDMA systems can be a period with one or more frequencies, this reads on at least one of different spread-spectrum codes, different code groups, different frequencies and different midambles as claimed (see col. 5, lines 7-10). Raitola teaches wherein the channel description further includes information about utilization of the channel resources during the radio transmission, which specifies an order of the transmission of data for the one transmission direction (see col. 11, lines 1-3, Forward Order specifying which transmission unit and on which channel a terminal having a certain ID should transmit reads on specifying an order of the transmission of data for the one transmission direction).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

IV. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raitola et al. (US 6,317,418 B1) in view of Gorsuch et al. (US 6,388,999 B1).

Regarding claim 4 Raitola teaches a device as recited in claim 1 except for sending a coherent channel description as a message from the base station to the subscriber station, wherein an uplink and downlink channel are described one after another. Raitola does teach sending a coherent channel description as a message from the base station to the subscriber station (see col. 11, lines 1-3). Gorsuch teaches sending coherent channel assignment information from the base station to the subscriber station, wherein an uplink channel and a downlink channel are described one after the other (see col. 7, lines 40-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending a coherent channel description as a message from the base station to the subscriber station, wherein an uplink and downlink channel are described one after another because this would allow for a more efficient method of channel allocation that compensates for expansion and contraction of data traffic loading.

Regarding claim 5 Raitola teaches a device as recited in claim 1 except for sending an uplink channel and a downlink channel as separate messages from the base station to the

subscriber station. Gorsuch teaches sending an uplink channel and a downlink channel as separate communications from the base station to the subscriber station (see col. 5, lines 26-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending an uplink channel and a downlink channel as separate messages from the base station to the subscriber station because this would allow for a more efficient method of channel allocation that compensates for expansion and contraction of data traffic loading.

Regarding claim 6 Raitola teaches a device as recited in claim 1 except for sending an uplink channel and a downlink channel in a common channel description as a message, the message having a flag indicating parts of the description which relate to the uplink channel and to the downlink channel. Gorsuch teaches an urgency factor indicating the need to transmit data and based upon the urgency factor sending an uplink and a downlink channel description (see col. 7, lines 34-46, urgency factor reads on flag). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending an uplink channel and a downlink channel in a common channel description as a message, the message having a flag indicating parts of the description which relate to the uplink channel and to the downlink channel because this would allow for a more efficient method of channel allocation that compensates for expansion and contraction of data traffic loading.

Response to Arguments

V. Applicant's arguments filed 10/22/2008 have been fully considered but they are not persuasive.

Regarding claims 1 and 8 Raitola teaches a device as claimed. Applicant's argues that Raitola does not teach transmitting a common channel description to the subscriber terminal that includes information about which channels are used and in which order they have to be used. However, the examiner has not found a recitation of transmitting a common channel description to the subscriber terminal that includes information about which channels are used and in which order they have to be used in claims 1 and 8. In response to this argument that the references fail to show certain features of applicant's invention, it is noted that the features above on which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon J Miller/
Examiner, Art Unit 2617

February 23, 2009